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APR 30 1992

Federal Communications Commission
Office of the Secretary

April 29, 1992

VIA HAND DELIVERY

The Honorable Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

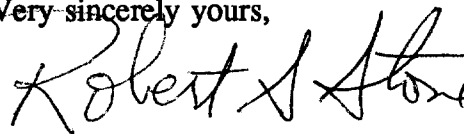
Re: MM Docket No. 92-63, Greenville, Georgia

Dear Ms. Searcy:

Enclosed please find an original and six copies of a Joint Motion for Approval of Settlement Agreement submitted herewith on behalf of our client in the above-docketed action, Orchon Broadcasting Company, and competing applicant Nadine P. Richardson, d/b/a Rocky Mount Broadcasting. We are also enclosing an additional copy of the Joint Motion which we would appreciate your returning to the undersigned in the enclosed self-addressed, postage paid envelope after it has been date-stamped by your office.

Should you or any members of your staff have questions concerning the enclosed, please contact the undersigned for clarification. Thank you for your cooperation in this matter. With kind regards, I remain

Very sincerely yours,



Robert S. Stone
Counsel to Orchon Broadcasting Company

RSS/dlb
Enclosures

cc: Orchon Broadcasting Company
Barbara L. Waite, Esq.
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APR 30 1992

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In re Applications of)	MM Docket No. 92-63
)	
NADINE P. RICHARDSON, d/b/a)	File No. BPH-901221MG
ROCKY MOUNT BROADCASTING)	
)	
ORCHON BROADCASTING COMPANY)	File No. BPH-901221MI
)	
)	
For Construction Permit for a)	
New FM Station on Channel 239A)	
in Greenville, Georgia)	

To: The Honorable Joseph Stirmer
Chief Administrative Law Judge

JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT

Orchon Broadcasting Company ("Orchon") and Nadine P. Richardson, d/b/a Rocky Mount Broadcasting ("Richardson") by their respective attorneys, and pursuant to § 73.3525 of the Commission's rules and regulations, hereby respectfully request that the Presiding Officer approve the Settlement Agreement and related documents attached hereto, dismiss with prejudice the application of Richardson, and grant the application of Orchon¹. In support whereof, the following is shown:

¹ In response to ¶4 of the Hearing Designation Order, DA92-359, released April 13, 1992, designating the applications of Orchon and Richardson for hearing, Orchon has filed an amendment to its application which confirms that its proposed construction satisfies all relevant requirements with respect to human exposure to radio frequency radiation. The parties recognize that the Presiding Officer will not grant Orchon's application until determination by the Mass Media Bureau that, based upon its analysis of Orchon's amendment, Orchon's proposal will not have a significant impact upon the quality of the human environment.

1. The parties hereto are the only competing applicants for a new FM station to serve the community of Greenville, Georgia on FM Channel 239A. Under the provisions of the Settlement Agreement attached hereto, Richardson proposes to dismiss her application in return for reimbursement by Orchon of Richardson's expenses in prosecuting her application (including settlement of the instant proceeding) not to exceed Sixteen Thousand Eight Hundred Sixty and 90/100 Dollars (\$16,860.90). As noted therein, said payment of Sixteen Thousand Eight Hundred Sixty and 90/100 Dollars (\$16,860.90) shall be held in escrow and disbursed following finality of the Presiding Officer's approval of the joint settlement request, dismissal of Richardson's application, grant of Orchon's application, and termination of the instant proceeding.

2. The Settlement Agreement between the parties contains all required declarations of the parties under penalty of perjury necessary for the Presiding Officer to confirm compliance by the parties with § 73.3525 of the Commission's rules. Specifically, the parties confirm under penalty of perjury that neither application was filed for the purpose of reaching or carrying out a settlement agreement, that Richardson has neither received nor will receive any money or other consideration in excess of the legitimate and prudent expenses of Richardson in this proceeding, and that approval of the Settlement Agreement would further the public interest.

3. Approval of the Settlement Agreement would serve the public interest, in that it would eliminate the conflict between the applications of the parties, thereby eliminating the need for a comparative hearing which would otherwise be required for Greenville, Georgia FM Channel 239A, and providing for prompt initiation of new FM service for the community of Greenville, Georgia and surrounding areas.

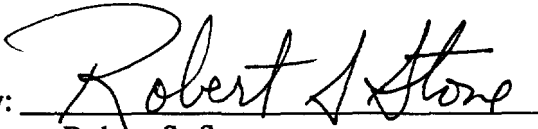
WHEREFORE, premises considered, Orchon Broadcasting Company and Nadine P. Richardson, d/b/a Rocky Mount Broadcasting respectfully request that the Presiding Officer approve the attached Settlement Agreement, dismiss the application of Nadine P. Richardson, d/b/a Rocky Mount Broadcasting, grant the application of Orchon Broadcasting Company, and terminate the instant proceeding.

Respectfully submitted,

ORCHON BROADCASTING COMPANY

McC Campbell & Young, Its Attorneys


McCAMPBELL & YOUNG
2021 Plaza Tower
Post Office Box 550
Knoxville, TN 37901-0550
(615) 637-1440

By: 
Robert S. Stone

NADINE P. RICHARDSON, d/b/a
ROCKY MOUNT BROADCASTING

Venable, Baetjer, Howard & Civiletti,
Her Attorneys

VENABLE, BAETJER, HOWARD
& CIVILETTI
1201 New York Avenue, N.W.
Suite 1000
Washington, D.C. 20554
(202) 962-4800

By: 
Barbara L. Waite

SETTLEMENT AGREEMENT

THIS AGREEMENT entered into by and between Orchon Broadcasting Company ("Orchon") and Nadine P. Richardson, d/b/a Rocky Mount Broadcasting ("Richardson").

*** * * W I T N E S S E T H * * ***

WHEREAS, Orchon has pending before the Federal Communications Commission ("Commission") an application for a construction permit for a new commercial FM broadcast station to be operated on Channel 239A at Greenville, Georgia (File No. BPH-901221MI); and

WHEREAS, Richardson has pending an application for similar facilities at Greenville, Georgia (File No. BPH-901221MG); and

WHEREAS, the said applications are mutually exclusive in that only one may be granted, following a consolidated hearing by the Commission; and

WHEREAS, the parties desire to avoid the additional time and expense of a comparative hearing and to permit the earlier provision of new FM broadcast service to the community of Greenville, Georgia; and

WHEREAS, the parties believe that the public interest would be served by the earlier institution of such new FM broadcast service to Greenville, Georgia, and further, by avoiding more costly and lengthy proceedings before the Commission and the burden such would place upon the resources of the parties and the resources of the staff of the Commission; and

WHEREAS, Richardson is willing to dismiss her application in return for the consideration specified below:

NOW, THEREFORE, in consideration of their mutual promises, the parties hereto agree as follows:

1. **Commission Consent.** This Agreement is entered into subject to approval by the Commission, and shall be void unless the Commission shall approve it.

2. **Joint Request for Approval of Agreement.** On or before May 4, 1992, the parties hereto agree to file with the Commission a joint request for approval of this Agreement. The joint request shall be accompanied by a copy of this Agreement as well as other supporting documentation required by Section 73.3525 of the Commission's Rules and Regulations.

3. **Dismissal of Richardson Application.** The joint request shall include Richardson's request for dismissal, with prejudice, of her pending application for authority to construct a new commercial FM broadcast station to serve the community of Greenville, Georgia on FM Channel 239A (File No. BPH-901221MG).

4. **Consideration.** In return for the dismissal of the application of Richardson as hereinabove provided, Orchon shall pay to Richardson a sum not to exceed Sixteen Thousand Eight Hundred Sixty and 90/100 Dollars (\$16,860.90), which sum represents the legitimate and prudent expenses incurred by Richardson in preparing, filing, prosecuting, and settling her application for Greenville, Georgia Channel 239A, over and above the hearing fee paid by Richardson prior to designation of her application for hearing, for which Richardson shall be responsible for obtaining a refund from the Commission based upon the dismissal of her application as provided herein. Said payment shall be made on or before the fifth day following the date on which the dismissal of Richardson's application and grant of Orchon's application by the Commission have become final or no longer subject to judicial or administrative review or reconsideration. On or before the filing of the joint motion for approval of the instant Settlement Agreement with the Commission by the parties hereto, Orchon shall deposit the above

sum in an escrow account. Counsel for Orchon shall serve as escrow agent pursuant to the terms of the Escrow Agreement attached hereto. Counsel for Orchon, as escrow agent, shall pay over to Richardson an amount equal to her reimbursable expenses not to exceed the above sum on or before the fifth day following the date on which the dismissal of Richardson's application and grant of Orchon's application by the Commission have become final as set forth above and shall pay all interest accrued thereon and the balance thereof, if any to Orchon. By execution of this Agreement, Richardson declares under penalty of perjury that her application was not filed for the purpose of reaching or carrying out a settlement agreement, including the instant Agreement, that the Agreement is in the public interest for the reasons set forth above, that she has not received nor will receive any money or other consideration in excess of the legitimate and prudent expenses of the applicant, that the instant Agreement sets forth the exact nature and amount of all consideration paid and/or promised, that the attached list of itemized expenses for which Richardson seeks reimbursement include only expenses reasonably incurred by Richardson in preparing, filing, prosecuting, and/or settling her application for which reimbursement is sought herein, and that there are no oral agreements relating to the dismissal or withdrawal of her application. By the execution of this Agreement, Orchon, through its president, Edmidio Fernandez, Jr., declares under penalty of perjury that the instant Agreement is in the public interest for the reasons set forth above, that the application of Orchon was not filed for the purpose of reaching or carrying out a settlement agreement, including the instant Agreement, that no money or other consideration in excess of the legitimate and prudent expenses incurred by Richardson has been promised or paid in connection with the dismissal of Richardson's application, that the instant Agreement sets forth the exact nature and amount of any consideration paid or promised to Richardson, and that there are no oral agreements relating to the dismissal or withdrawal of the Richardson application.

5. **Conduct of Parties.** Each party hereto agrees to cooperate with each other and the Commission by expeditiously providing each other and/or the Commission with any additional information which reasonably may be required, and by expeditiously filing any additional documents which may be necessary to effectuate the objectives of this Agreement, including the grant of Orchon's application.

6. **Entire Agreement.** This Agreement is the only agreement between the parties hereto and contains all of the terms and conditions agreed upon with respect to the subject matter hereof. It shall be binding upon the parties hereto, their successors and assigns.

7. **Counterparts.** This Agreement may be executed in one or more counterparts, and all so executed shall constitute one Agreement, binding on the parties hereto, notwithstanding that the parties are not signatory to the original or the same counterpart.

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement on the day(s) and date(s) specified below.

ORCHON BROADCASTING COMPANY

Date: 4/28/92

By: Edmidio Fernandez, Jr.
Edmidio Fernandez, Jr., President

NADINE P. RICHARDSON, d/b/a
ROCKY MOUNT BROADCASTING

Date: _____

By: _____
Nadine P. Richardson

5. **Conduct of Parties.** Each party hereto agrees to cooperate with each other and the Commission by expeditiously providing each other and/or the Commission with any additional information which reasonably may be required, and by expeditiously filing any additional documents which may be necessary to effectuate the objectives of this Agreement, including the grant of Orchon's application.

6. **Entire Agreement.** This Agreement is the only agreement between the parties hereto and contains all of the terms and conditions agreed upon with respect to the subject matter hereof. It shall be binding upon the parties hereto, their successors and assigns.

7. **Counterparts.** This Agreement may be executed in one or more counterparts, and all so executed shall constitute one Agreement, binding on the parties hereto, notwithstanding that the parties are not signatory to the original or the same counterpart.

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement on the day(s) and date(s) specified below.

ORCHON BROADCASTING COMPANY

Date: _____

By: _____
Edmidio Fernandez, Jr., President

NADINE P. RICHARDSON, d/b/a
ROCKY MOUNT BROADCASTING

Date: 4-28-92

By: Nadine P. Richardson
Nadine P. Richardson

ESCROW AGREEMENT

THIS AGREEMENT, made by and among Orchon Broadcasting Company ("Orchon"), Nadine P. Richardson, d/b/a Rocky Mount Broadcasting ("Richardson") and Robert S. Stone, escrow agent ("Agent").

*** * * W I T N E S S E T H * * ***

WHEREAS, pursuant to and subject to that certain Settlement Agreement, of even date herewith, by and between Orchon and Richardson, Orchon has agreed to make certain payments to Richardson; and

WHEREAS, such payment is contingent upon the final written consent of the Federal Communications Commission ("Commission") in accordance with the Settlement Agreement; and

WHEREAS, said written consent of the Commission shall become "final" when no longer subject to administrative or judicial review or reconsideration, forty (40) days following release of the Order of the Presiding Administrative Law Judge dismissing Richardson's application, granting Orchon's application, and terminating the comparative hearing proceeding in MM Docket No. 92-63 for Greenville, Georgia FM Channel 239A; and

WHEREAS, Orchon and Richardson have joined in the preparation of a Joint Motion for Approval of Settlement Agreement to be filed with the Commission, which Joint Motion seeks the dismissal of Richardson's application and the grant of Orchon's application; and

WHEREAS, pursuant to and subject to the Settlement Agreement, Orchon has agreed to place in escrow with Agent the consideration set forth within said Settlement Agreement;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. On or before the filing of the Joint Request for Approval of Settlement Agreement by the parties hereto, Orchon shall place in escrow with Agent the sum of Sixteen Thousand Eight Hundred Sixty and 90/100 Dollars (\$16,860.90), to be held by Agent and disbursed by Agent in accordance with the terms hereof and the Settlement Agreement.

2. Upon grant by the Commission of the parties' Joint Motion for Approval of Settlement Agreement, the dismissal of Richardson' application, and the grant of Orchon's application, Agent shall notify Orchon and Richardson thereof. Within five (5) days from the date on which the Commission's action described above becomes "final", Agent shall disburse the reimbursable escrow funds held pursuant to this Agreement to Richardson and the balance, if any, together with interest accrued thereon to Orchon as set forth in the Settlement Agreement. Should the Commission deny the parties' Joint Motion for Approval of Settlement Agreement, Agent shall disburse all escrowed funds and accrued interest to Orchon.

3. In the event that the consent of the Commission does not become final by virtue of a petition for reconsideration or review filed by third parties, or upon review of the consent granted by the Presiding Administrative Law Judge under delegated authority on motion of the Federal Communications Commission itself, Agent shall withhold distribution of the consideration described above pending resolution of said review or reconsideration. Both Orchon and Richardson will cooperate with the other and the Commission in seeking the prompt and favorable resolution of any such review or reconsideration.

4. All funds held hereunder by Agent shall be placed in an interest bearing money market fund account with J.C. Bradford & Company, Plaza Tower, Knoxville, Tennessee 37929 pending final disbursement as provided above. All interest earned shall be disbursed to Orchon upon final disbursement as provided above.

5. The Agent undertakes to perform only such duties as are expressly set forth herein. The Agent may rely upon, and shall be protected in acting or refraining from acting upon, written or oral notice, instructions or requests furnished to him hereunder and believed by him to be genuine and to have been signed or presented by the proper party or parties. The Agent shall not be liable for any action taken by him in good faith and believed by him to be authorized or within the rights or powers conferred upon him by the parties in this Agreement, and may consult with counsel of his own choice, and shall have full and complete authorization and protection for any action taken or suffered by him hereunder in good faith and in accordance with the opinion of such counsel. Orchon and Richardson shall hold Agent harmless against all proper charges and expenses of the Agent, including reasonable charges and expenses of his counsel in defending any action brought against him by reason of his acting as Agent hereunder, unless it is determined in such action that the Agent knowingly and willfully acted in violation of his duties and obligations hereunder. It is agreed by Orchon and Richardson that Agent's compensation for services performed hereunder shall be the responsibility of Orchon. Anything herein contained to the contrary notwithstanding, the Agent may withhold distribution of the escrowed funds deposited hereunder to the parties until all amounts to which he is entitled to indemnification from Orchon and Richardson shall have been fully paid.

IN WITNESS WHEREOF, the parties hereto have signed their names this 28th
day of April, 1992.

ORCHON BROADCASTING COMPANY

By: Edmidio Fernandez, Jr.
Edmidio Fernandez, Jr., President

NADINE P. RICHARDSON, d/b/a
ROCKY MOUNT BROADCASTING

By: _____
Nadine P. Richardson

ESCROW AGENT:

Robert S. Stone

ESCROW AGENT: ROBERT S. STONE

This is to certify that the items described above have been received by and are in the custody of Robert S. Stone, Escrow Agent, and the terms of this Agreement are hereby agreed to on my part.

ESCROW AGENT:

Robert S. Stone

IN WITNESS WHEREOF, the parties hereto have signed their names this 28
day of April, 1992.

ORCHON BROADCASTING COMPANY

By: _____
Edmidio Fernandez, Jr., President

NADINE P. RICHARDSON, d/b/a
ROCKY MOUNT BROADCASTING

By: Nadine P. Richardson
Nadine P. Richardson

ESCROW AGENT:

Robert S. Stone

ESCROW AGENT: ROBERT S. STONE

This is to certify that the items described above have been received by and are in the custody of Robert S. Stone, Escrow Agent, and the terms of this Agreement are hereby agreed to on my part.

ESCROW AGENT:

Robert S. Stone

DECLARATION OF EDMIDIO FERNANDEZ, JR.

I, Edmidio Fernandez, Jr., hereby make the following statement and declaration under penalty of perjury:

1. I am president of Orchon Broadcasting Company ("Orchon"), applicant for a new FM broadcast station to serve the community of Greenville, Georgia on FM Channel 239A (File No. BPH-901221MI), entitled "Orchon Broadcasting Company".

2. I have reached an agreement with competing applicant Nadine P. Richardson, d/b/a Rocky Mount Broadcasting ("Richardson") which provides for the dismissal of Richardson's application described above in return for reimbursement of her expenses incurred in preparing, filing, prosecuting, and/or settling Richardson's application. A copy of the agreement is submitted herewith. No consideration has been or will be given or promised to Richardson to obtain the dismissal of Richardson's application, except as provided for in the attached Settlement Agreement. Further, there are no oral agreements relating to the dismissal or withdrawal of Richardson's application.

3. Orchon's application was not filed for the purpose of reaching or carrying out a settlement agreement or any other such agreement with Richardson or any other person or entity.

4. The Settlement Agreement is in the public interest because it resolves the mutual exclusivity between Orchon's application and Richardson's application for a new FM station to serve Greenville, Georgia, thereby eliminating the need for a comparative hearing, and expediting the initiation of new FM broadcast service to the community of Greenville, Georgia and surrounding areas.

EXECUTED on 4/28, 1992.

ORCHON BROADCASTING COMPANY

By: Edmidio Fernandez, Jr.
Edmidio Fernandez, Jr., President

DECLARATION OF NADINE P. RICHARDSON

I, Nadine P. Richardson, hereby make the following statement and declaration under penalty of perjury:

1. I am an applicant for a new FM broadcast station to serve the community of Greenville, Georgia on FM Channel 239A (File No. BPH-901221MG), entitled "Nadine P. Richardson d/b/a Rocky Mount Broadcasting".

2. I have reached an agreement with competing applicant Orchon Broadcasting Company ("Orchon") which provides for the dismissal of my application described above in return for reimbursement of my expenses incurred in preparing, filing, prosecuting, and/or settling my application. A copy of the agreement is submitted herewith. No consideration has been or will be given or promised to me to obtain the dismissal of my application, except as provided for in the attached Settlement Agreement. Said consideration does not exceed the expenses I have reasonably incurred in preparing, filing, prosecuting, and/or settling my application for which such reimbursement is sought. Further, there are no oral agreements relating to the dismissal or withdrawal of my application.

3. My application was not filed for the purpose of reaching or carrying out a settlement agreement or any other such agreement with Orchon or any other person or entity.

4. The Settlement Agreement is in the public interest because it resolves the mutual exclusivity between my application and Orchon's application for a new FM station to serve Greenville, Georgia, thereby eliminating the need for a comparative hearing, and expediting the initiation of new FM broadcast service to the community of Greenville, Georgia and surrounding areas.

EXECUTED on _____, 1992.

NADINE P. RICHARDSON d/b/a
ROCKY MOUNT BROADCASTING

By: Nadine P. Richardson
Nadine P. Richardson